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EXAMINER

ZHE, MENG YAO

| ART UNIT | PAPER NUMBER |
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2109

| MAIL DATE | DELIVERY MODE |
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05/10/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/662,932

Applicant(s)

HUSAIN ET AL.

Examiner

MengYao Zhe

Art Unit

2109

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 to 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 to 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 September 1003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 8/16/04, 11/26/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

This is the initial Office Action based on the 10/662932 application filed on 9/15/2003.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 8/16/2004 and 11/26/2004 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the Examiner has considered the IDS as to the merits.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 8 to 14 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim(s) 8 to 14 are directed to a carrier medium.

The claims fail to place the invention squarely within one statutory class of invention. At paragraph 237 of the instant specification, applicant has provided evidence that applicant intends the "medium" to include signals. As such, the claim is drawn to a form of energy. Energy is not one of the four categories of invention and therefore this

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claim(s) is/are not statutory. Energy is not a series of steps or acts and thus is not a process. Energy is not a physical article or object and as such is not a machine or manufacture. Energy is not a combination of substances and therefore not a composition of matter.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 to 3, 7 to 10, 14 to 17, and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Lowry et al., Patent No. US 6,772,206, 8/3/2004 (hereafter Lowry).

As per **claim 1**, Lowry teaches **a method for performing a task using a plurality of applications in a networked computer environment, the method comprising:**

sending instructions for performing the task from a first computer system to one or more remote computer systems, wherein the instructions for performing the task comprise instructions for performing one or more subtasks with each of a plurality of applications, and *(Lowry discloses a system that bridges two different computer systems on a network that each uses a different intra-communication method. The APIs calls contain the instructions. Please refer to the Exemplary System starting on Column 2, line 64.)*

wherein the instructions for performing the task comprise a plurality of messages in a portable format; *(Column 9, and first 4 paragraphs of column 10: The system disclosed by Lowry employs an adapter that converts a request, using HTTP protocol, into another ATP protocol based format. The intermediate uses XML, and this is considered to be the portable format.)*

translating the instructions for performing the task from the portable format to an executable format at the one or more remote computer systems, thereby generating executable instructions for performing the plurality of subtasks; and executing the executable instructions to perform the subtasks comprising the task. *(Column 9, and first 4 paragraphs of column 10)*

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As per **claim 8**, it claims for a carrier medium. It contains all the instructions necessary to perform the method of claim 1. Since claim 1 is rejected, claim 8 is rejected as well.

As per **claim 15**, it claims for a system. It contains all the components to perform the method of claim 1. Since claim 1 is rejected, claim 15 is rejected as well.

As per **claim 2**, Lowry teaches

wherein the instructions are sent to the one or more remote computer systems via a distributed computing infrastructure. (Abstract)

As per **claim 9**, it claims for a carrier medium. It contains all the instructions necessary to perform the method of claim 2. Since claim 2 is rejected, claim 9 is rejected as well.

As per **claim 16**, it claims for a system. It contains all the components to perform the method of claim 2. Since claim 2 is rejected, claim 16 is rejected as well.

As per **claim 3**, Lowry teaches

wherein the instructions are translated from the portable format to the executable form by a distributed computing infrastructure (*Column 9, and first 4 paragraphs of column 10*)

As per **claim 10**, it claims for a carrier medium. It contains all the instructions necessary to perform the method of claim 3. Since claim 3 is rejected, claim 10 is rejected as well.

As per **claim 17**, it claims for a system. It contains all the components to perform the method of claim 3. Since claim 3 is rejected, claim 17 is rejected as well.

As per **claim 7**, Lowry teaches

wherein the portable format comprises XML (*Column 9, and first 4 paragraphs of column 10*)

As per **claim 14**, it claims for a carrier medium. It contains all the instructions necessary to perform the method of claim 7. Since claim 7 is rejected, claim 14 is rejected as well.

As per **claim 21**, it claims for a system. It contains all the components to perform the method of claim 7. Since claim 7 is rejected, claim 21 is rejected as well.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 4, 6, 11, 13, 18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lowry et al., Patent No. US 6,772,206, 8/3/2004 (hereafter Lowry). in view of Tso et al. Patent No. US 6,247,050, 6/12/2001 (hereafter Tso).

As per **claim 4**, Lowry teaches all of claim 1.

Lowry does not specify

Using unicast peer-to-peer messaging as a way to communicate

However, Tso teaches

Information being sent using unicast peer-to-peer messaging for the purpose of having a method to communicate between computers. (*Column 9, lines 30 to 45*)

It would have been obvious to one having ordinary skill in the art at the time of the applicant's invention to have modified the invention of Lowry with

Information being sent using unicast peer-to-peer messaging for, as taught by Tso, because it allows for a way to communicate between computers.

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As per **claim 11**, it claims for a carrier medium. It contains all the instructions necessary to perform the method of claim 4. Since claim 4 is rejected, claim 11 is rejected as well.

As per **claim 18**, it claims for a system. It contains all the components to perform the method of claim 4. Since claim 4 is rejected, claim 18 is rejected as well.

As per **claim 6**, Lowry teaches all of claim 1.

Lowry does not specify

Using broadcast peer-to-peer messaging as a way to communicate

However, Tso teaches

Information being sent using broadcast peer-to-peer messaging for the purpose of having a method to communicate between computers. (*Column 9, lines 25 to 45*)

It would have been obvious to one having ordinary skill in the art at the time of the applicant's invention to have modified the invention of Lowry with

Information being sent using broadcast peer-to-peer messaging for, as taught by Tso, because it allows for a way to communicate between computers.

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As per **claim 13**, it claims for a carrier medium. It contains all the instructions necessary to perform the method of claim 6. Since claim 6 is rejected, claim 13 is rejected as well.

As per **claim 20**, it claims for a system. It contains all the components to perform the method of claim 6. Since claim 6 is rejected, claim 20 is rejected as well.

Claims 5, 12, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lowry et al., Patent No. US 6,772,206, 8/3/2004 (hereafter Lowry). in view of Chen et al., Patent No. 5,831,975, 11/3/1998 (hereafter Chen)

As per **claim 5**, Lowry teaches all of claim 1.

Lowry does not specify

Using multicast peer-to-peer messaging as a way to communicate

However, Chen teaches

Information being sent using multicast peer-to-peer messaging for the purpose of having a method to communicate between computers. (Abstract)

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It would have been obvious to one having ordinary skill in the art at the time of the applicant's invention to have modified the invention of Lowry with

Information being sent using multicast peer-to-peer messaging for, as
taught by Chen, because it allows for a way to communicate between computers.

As per **claim 12**, it claims for a carrier medium. It contains all the instructions necessary to perform the method of claim 5. Since claim 5 is rejected, claim 12 is rejected as well.

As per **claim 19**, it claims for a system. It contains all the components to perform the method of claim 5. Since claim 5 is rejected, claim 19 is rejected as well.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MengYao Zhe whose telephone number is 571-272-6946. The examiner can normally be reached on Monday Through Friday, 7:30 - 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Del Sole can be reached on 571-272-1130. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

M.Z.


KIMBERLY D. NGUYEN
PRIMARY EXAMINER